

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DONNA A.

Case No. 20-CV-2109 (NEB/BRT)

Plaintiff,

v.

ORDER ACCEPTING REPORT AND
RECOMMENDATION

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Plaintiff sued to challenge the Acting Commissioner of Social Security's decision to deny her application for disability benefits. Each party moved for summary judgment. (ECF Nos. 26, 28.) In a Report and Recommendation, United States Magistrate Judge Hildy Bowbeer recommends granting the Commissioner's motion and denying Plaintiff's motion. (ECF No. 30 ("R&R").) Judge Bowbeer concluded that the administrative law judge ("ALJ") did not commit reversible error by failing to adopt sitting or standing limitations within Plaintiff's residual functional capacity ("RFC"). (*Id.* at 18–21.) Plaintiff objects to the R&R, citing evidence that she claims supports an RFC lighter than the one found by the ALJ. (ECF No. 33 at 2; *see also* ECF No. 27 at 31–35.)

Because Plaintiff objects, the Court reviews the R&R *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); D. Minn. LR 72.2(b)(3). Based on that *de novo* review, the Court agrees with the R&R's analysis and conclusions. "Substantial evidence in the record as a

whole” supports the ALJ’s finding that Plaintiff was capable of the sitting and standing requirements for light exertion work. *Grindley v. Kijakazi*, 9 F.4th 622, 627 (8th Cir. 2021). The evidence Plaintiff cites might support sitting and standing limitations, but “[r]eversal is not warranted . . . ‘merely because substantial evidence would have supported an opposite decision.’” *Id.* (citation omitted). Because the record could also reasonably support the ALJ’s findings, the Court will not disturb the ALJ’s decision. *Id.*; see *Kraus v. Saul*, 988 F.3d 1019, 1024 (8th Cir. 2021) (holding that courts “will disturb the ALJ’s decision only if it falls outside the available zone of choice” (citation omitted)).

Based on all the files, records, and proceedings in this case, IT IS HEREBY ORDERED THAT:

1. Plaintiff’s Objection (ECF No. 33) is OVERRULED;
 2. The Report and Recommendation (ECF No. 30) is ACCEPTED;
 3. Plaintiff’s Motion for Summary Judgment (ECF No. 26) is DENIED;
 4. Defendant’s Motion for Summary Judgment (ECF No. 28) is GRANTED;
- and
5. This matter is DISMISSED WITH PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 7, 2022

BY THE COURT:

s/Nancy E. Brasel
 Nancy E. Brasel
 United States District Judge